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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/535,540	12/14/2005	Cameron James King	FAK-7683	9225
26294 7590 10/02/2008 TAROLLI, SUNDHEIM, COVELL & TUMMINO L.L.P. 1300 EAST NINTH STREET, SUITE 1700 CLEVEVLAND, OH 44114				
EXAMINER				
DINH, BACH T				
ART UNIT		PAPER NUMBER		
1795				
MAIL DATE		DELIVERY MODE		
10/02/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/535,540

**Applicant(s)**

KING, CAMERON JAMES

**Examiner**

BACH T. DINH

**Art Unit**

1795

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 July 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4 and 19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(c), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(c) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 07/11/2008 has been entered.

### ***Response to Amendment***

2. The amendment filed on 07/11/2008 does not place the application in condition for allowance.

### ***Summary***

3. Claims 1-4 and 19 remain pending in current application and have been fully considered.

4. The 35 U.S.C. 102(e) rejections of claims 1-4 are withdrawn in view of Applicant's argument and amendment.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. Claims 1-2 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gilmore (US 6,866,757) in view of Johnny (US 2002/0185446).

Addressing claims 1-2 and 19, Gilmore discloses a control assembly for an electrocoagulation cell comprising:

- a. A plurality of electrodes forming both at least positive electrodes and negative electrodes (see figure 6, with group one plates 36 as positive electrodes and group two plates 38 as negative electrodes, 8:21-24, 10:62-11:3);
- b. The electrode plates 36 and 38 further comprise tabs with notch, slot or aperture (electrically conductive ears 60, in figure 6) extend from the side edge of the electrode plates 36 and 38 in alternating directions and positive pole and negative pole connecting to the electrode plates (10:62-11:3), the negative and positive poles are isolated from the liquid contained in the electrocoagulation cell because the liquid is contained within the space between the electrode plates 36 and 38 and the spacers 46 (10:48:61); furthermore, the negative and positive poles, when attached to the ears 60 of the electrode plates would inherently be arranged in normal orientation to respective top edges of each electrode (figure 6); and

- c. Electrical connection means attached to both the negative and positive poles at each end thereof which is use in connectable to a power supply (9:12-17, the claimed electrical connection means is the inherent electrical connectors that connects the positive and negative terminals of the power supply 20 to the positive and negative poles).

Gilmore fails to disclose ears 60 extend upwardly from the adjacent top edge of the electrode plates 36 and 38 and the first and second busbars with the respective fasteners.

At the time of the invention, one with ordinary skill in the art would have found it obvious to modify the position of the ears 60 from the side of the electrode plates 36 and 38 to the top of the electrode plates because such modification is an engineering noise. Furthermore, one with ordinary skill in the art would have expect success with the modification because the ears 60, whether on the side or on the top of the electrode plates, would not have performed a materially different function.

Johnny discloses an electrocoagulation system; wherein, two threaded electrode connections or busbars 30 and 32 are arranged normal to the respective top edges of the electrode plates 42-43 and are substantially parallel to each other; furthermore, the electrical connections 30 and 32 are secured to the electrode plates by washers 38 and nuts 39 (figure 8, [0076]).

Gilmore and Johnny are analogous arts for they disclose electrocoagulation systems. At the time of the invention, one with ordinary skill in the art would have found it obvious to modify the electrocoagulation system of Gilmore by securing each electrode plate 36 and 38 with the busbars, washers and nuts of Johnny because the using the threaded busbars, washers and nuts allows for secured electrical contact and connection between the power

supply and the electrode plates (Gilmore, [0076]). Furthermore, one would have expected success when combining the busbars, washers and nuts of Johnny with the electrode plates of Gilmore because the busbars, washers and nuts of Johnny, separate or in combination, would not have performed a materially different function.

8. Claims 3-4 rejected under 35 U.S.C. 103(a) as being unpatentable over Gilmore (US 6,866,757) in view of Johnny (US 2002/0185446) as applied to claims 1-2 above, and further in view of Lambert et al. (US 6,325,916).

Addressing claims 3-4, Gilmore discloses the electrode plates have ears 60 for receiving DC electrical connection (8:63-64).

Johnny discloses the electrical connectors 30 and 32 are connected to an external DC power source.

Gilmore and Johnny fail to disclose a power lead secured to an electrical connector having an aperture for engaging with an adjacent end of the busbar and is attached to the busbar with a fastener on either side of the connector.

Lambert discloses a waste water treatment system (figure 9); wherein, the rods 106 and 108, which supply electrical power to the plates 84 are connected to the excitation circuitry 74 by leads 110 and 120 (11:25-41). The leads are the claimed power lead and the portions of the leads that come into contact with the rods 106 and 108 are the claimed electrical connector having an aperture for engaging with an adjacent end of the rods 106 and 108 (see figure 9). Furthermore, the electrical connectors are attached to the rods 106 and 108 with fasteners on

either side of the fasteners (in figure 9, the nuts, that are on either side of the portion that leads 110 and 120 that are in electrical contact with the rods 106 and 108, are the fasteners). Gilmore, Johnny and Lambert are analogous arts for they disclose electrocoagulation systems. At the time of the invention, one with ordinary skill in the art would have found it obvious to modify the electrocoagulation system of Gilmore and Johnny with the leads 110 and 120 and their respective nuts for establishing electro connection between the DC power supply and the electrode plates 36 and 38 because the leads 110 and 120 provide secured electrical connection between the external circuitry and the electrode plates (Lambert, 11:25-41). Furthermore, one would have expected success when using the leads 110 and 120 and their respective nuts of Lambert for establishing electrical connection between the DC power supply and the electrode plates 36 and 38 of Gilmore because the leads 110 and 120, separate or in combination, would not have performed a materially different function.

#### ***Response to Arguments***

9. Applicant's arguments with respect to claims 1-4 and 19 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Conclusion***

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to BACH T. DINH whose telephone number is (571)270-5118. The examiner can normally be reached on Monday-Friday EST 7:00 A.M-3:30 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nam X. Nguyen can be reached on (571)272-1342. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Nam X Nguyen/  
Supervisory Patent Examiner, Art Unit 1753

BD  
09/26/2008